

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CIVIL ACTION FILE NO. 1:12-CV-589-WO-JEP

MARCIE FISHER-BORNE, et al.;)	
)	
Plaintiffs,)	
)	
vs.)	STATE DEFENDANTS'
)	MOTION TO DISMISS PLAINTIFFS' FIRST
)	AMENDED COMPLAINT
JOHN W. SMITH, et al.;)	
)	[Fed. R. Civ. P. 12(b)(1),(2) and (6)]
Defendants.)	
_____)	

PURSUANT to Rules 12(b)(1), (2) and (6) of the Federal Rules of Civil Procedure, now come Defendants JOHN W. SMITH, in his official capacity as the Director of North Carolina Administrative Office of the Courts; THE HONORABLE DAVID L. CHURCHILL, in his official capacity as Clerk of the Superior Court for Guilford County; THE HONORABLE ARCHIE L. SMITH III, in his official capacity as Clerk of the Superior Court for Durham County; ROY A. COOPER, in his official capacity as the North Carolina Attorney General, (collectively referred to as "State Defendants") by and through the undersigned attorneys, and respectfully move the Court to dismiss Plaintiffs' First Amended Complaint against State Defendants in the above-captioned matter.

Contingent upon the Court dismissing the Plaintiffs' First Amended Complaint against State Defendants only, ROY A. COOPER, in his official capacity as the North Carolina Attorney General, respectfully moves this Court to allow the Attorney General to intervene in this matter pursuant to 28 U.S.C. § 2403(b), Rule 24(a) of the Federal Rules of Civil Procedure and N.C. Gen. Stat. § 114-2.

Respectfully submitted, this the 11th day of September, 2013.

ROY COOPER
Attorney General

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CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of September, 2013, I electronically filed the foregoing **STATE DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ Olga E. Vysotskaya de Brito
Olga E. Vysotskaya de Brito
Assistant Attorney General